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9 Attorneys for Secured Creditor BOSTON PRIVATE  
10 BANK & TRUST COMPANY, formerly known as  
and successor to Borel Private Bank & Trust  
Company

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

15 In re:  
16 272 E. Santa Clara Grocery, LLC,  
17 Debtor.

CASE NO. 13-53491  
CHAPTER 11

**DECLARATION OF COUNSEL IN  
SUPPORT OF EX PARTE APPLICATIONS  
FOR ORDERS OF EXAMINATION OF  
DEBTOR WITNESSES AND FOR  
PRODUCTION OF DOCUMENTS  
PURSUANT TO BANKRUPTCY RULE  
2004**

23 I, Stephen J. Kottmeier, declare:

24       1. I am an attorney at law duly licensed under the laws of the State of California and  
25 am admitted to the bar of this Court. I am a shareholder with Hopkins & Carley, a Law  
26 Corporation, attorneys of record for Secured Creditor Boston Private Bank & Trust Company,  
27 formerly known as and successor to Borel Private Bank & Trust Company (“BPB”). I make this

1 declaration pursuant to Bankruptcy Rule 2004 in support of BPB's Ex Parte Applications for  
2 orders pursuant to Bankruptcy Rule 2004 for appearance and production of records of Andrew  
3 Lewis, Michael Lach, Liesel Ernst, Allyn R. Tognoli, Tina D. Tognoli, Ogen Perry, and Linda  
4 Latham (collectively the "Witnesses"), each of whom is listed in the Debtor's Statement of  
5 Financial Affairs as a member of Debtor 272 E. Santa Clara Grocery, LLC ("Debtor"). I am  
6 informed and believe that Mr. Lewis is also a managing member of the Debtor. The facts stated  
7 herein are true based upon my personal knowledge or upon my information and belief based upon  
8 our investigation of this matter.

9       2. The underlying facts pertinent to this application are set forth in the Declaration of  
10 David Scheiber In Support Of Secured Creditor's Boston Private Bank & Trust Company's  
11 Motion Confirming That No Stay Is In Effect With Respect To Rent, filed herein as Docket No.  
12 22-2 and 22-3 (Exhibits) and the Court is requested to take judicial notice of that declaration in  
13 the Court's records. A true copy of Mr. Scheiber's Declaration is attached to this Declaration as  
14 Exhibit 1.

15       3. Based on those facts and the Debtor's schedules and statement of affairs filed  
16 herein, BPB is informed and believes that each of the Witnesses has relevant information that will  
17 materially aid BPB in its investigation of the Debtor's acts, conduct, assets, liabilities, financial  
18 condition and business operations and sources of funds or other resources available to the Debtor  
19 for the purpose of consummating a plan. Each of the Witnesses is listed currently as an owner of  
20 the Debtor and, according to public records recorded in the Office of the Santa Clara County  
21 Recorder, formerly owned an interest in the real property which is identified as the Debtor's  
22 principal asset in this case.

23       11. The documents to be produced relate to the property of the bankruptcy estate and  
24 the Debtor's financial affairs, as well as its financial condition, business operations and sources of  
25 funds or other resources available to the Debtor. These matters may affect the administration of  
26 the estate and therefore fall under the proper scope of production of documentary evidence as  
27 delineated under Rule 2004(b) of the Federal Rules of Bankruptcy Procedure.

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12. On this basis, BPB requests that this Court order each of the Witnesses to appear for examination and to produce documents as indicated in the Ex Parte applications for and order of examination for each of the Witnesses.

13. BPB is serving this Application (by ECF filing and service) upon counsel for the Debtor and the Office of the United States Trustee and upon each of the Witnesses at the address shown for each in the Debtor's Statement of Financial Affairs.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and this declaration was executed on this 24 day of July, 2013, at San Jose, California.

/s/ Stephen J. Kottmeier  
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Stephen J. Kottmeier